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Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 2 May 2008 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006), and with reference to the latter's note dated 27 March 2008, has the honour to transmit herewith the report by Portugal on the implementation of Security Council resolution 1803 (2008) (see annex).

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Annex to the note verbale dated 2 May 2008 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

Report on the implementation of Security Council resolution 1803 (2008) by Portugal

In accordance with paragraph 13 of Security Council resolution 1803 (2008), and in complement to the report submitted by the European Union Presidency on this matter, Portugal has the honour to inform the Security Council Committee established pursuant to resolution 1737 (2006) on the measures adopted at the national level with the view to implementing the sanctions imposed on the Islamic Republic of Iran.

The Portuguese Government has for the past two months been involved in negotiation at the EU level aimed at adopting a common position to be endorsed by the Council and the subsequent drafting of a regulation transposing resolution 1803 into EU law.

At the national level, the Portuguese Government, committed to the full implementation of resolution 1803, undertook an instrumental inter-agency coordination and circulated it, along with its respective instructions of implementation, to all governmental departments that are involved in its comprehensive national application, as well as to other national entities considered relevant, such as the banking system.

To cope with commercial obligations such as the ones emerging from resolution 1803, Portugal has set forth legislative measures,[1] which implement at the national level the guidelines and the item lists of several export control regimes, such as the Missile Technology Control Regime (MTCR), the Wassenaar Arrangement (WA) and others.

As to what concerns dual-use goods and technologies, Portugal applies the norms of EC Regulation No. 1334/2000 of 22 June and EC Regulation No. 394/2006 of 27 February, according to which all transfers of such items are subject to a preliminary licensing procedure.

Specifically regarding requests for import, export or transit licenses to and from Iran of those goods, technologies and services, whose control rests with the Portuguese Ministry of Defence, these would be denied, in accordance with the following legislation:

i. *Decree-Law 371/80, 11 September*: Definition of rules for the exports of war material and imports of components;

ii *Decree-Law 1/86, 2 January*: The Minister of Defence must authorize the transfer of technology or the sale of patents, models, designs and technical assistance, as well as the participation of experts in foreign education and training programmes;

[1] Decreto-Lei No. 371/80 of 11th of September; Decreto-Lei No. 1/86 of the 2nd of January; Decreto-Lei No. 436/91 of 8th of November; Portaria No. 439/94 of 29th of June and Decreto-Lei No. 297/98 of 17th of December.

iii. *Decree-Law 436/91, 8 November*: Definition of rules for the control of imports and exports of goods that may affect the national strategic interests;

iv. *Decree ("Portaria") 439/94, 29 June*: List of goods and technologies that may affect the national strategic interests, subject to prior licensing and certification;

v. *Decree-Law 397/98, 17 December*: Access of private companies to the trade of military goods.

In the case of infringement, sanctions are imposed as follows:

i. *Decree-Law 1/86, 2 January*: The Minister of Defence may revoke an export license due to the higher National Defence interests.

ii. *Decree-Law 436/91, 8 November*: All those who are responsible for false statements or omit mandatory information from the international export or import certificates will be punished with up to two years in prison; all those who export, temporarily export or re-export goods and technologies that may affect the national strategic interests without the emission of an international export certificate or by means of a certificate obtained through false statements will be punished with a prison sentence from one month up to five years, if there is no higher penalty applicable to the fault by force of other legislation; attempted infringements will be punished.

iii. *Decree-Law 397/98, 17 December*: Infringement may imply the banning of private companies from further trade of military goods.

Regarding the freezing of funds, other financial assets and economic resources of persons and/or entities designated in the annex to resolution 1803, the mentioned resolution was sent to the Ministry of Finance, the competent authority for the application of these international sanctions. According to Law 11/2002 of 16 February 2002 establishing the penal regime applicable to situations of violation of sanctions imposed by Security Council resolutions or European Union regulations, the funds, financial assets and other economic resources should be frozen as soon as the Committee or the Security Council designates persons or entities. This would include any action that, directly or indirectly, might permit to put the funds within reach of any individual or legal entity mentioned in those international legal instruments (articles 1 and 2 of Law 11/2002). Therefore, the financial institutions should affect freezing of funds and economic resources after the competent authorities forward the relevant lists to them. Since the approval of resolution 1803 until now, the Portuguese authorities have not detected any funds, other financial assets or economic resources of persons and/or entities designated in the annex.

Other measures of transnational extent, mainly adopted an carried out at a European Union and international level, such as customs cooperation, information-sharing and intelligence activities, are being put forward to enhance the effectiveness of the sanctions applied against Iran. The Portuguese authorities will remain seized of this matter and will inform the Security Council of any further developments on this issue.